

**KANSAS STATE BOARD OF MORTUARY ARTS**  
**700 SW JACKSON, SUITE #904**  
**TOPEKA, KANSAS 66603-3733**  
**Wednesday-Thursday, January 12-13, 2011**

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**FORMAT OF MINUTES:**

On each motion there appear the names of two board members in a parenthesis. The first named made the motion, and the second named made the second. Ayes and Nays will be recorded at a voter's request.

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**Wednesday, January 12, 2011:**

- I. The Investigative Committee (IC) of the board met to discuss and make recommendations to the Board on open complaints. Those in attendance included: Charles R. Smith, Overland Park, Consumer, William H. "Bill" Young, Lake Quivira, Licensee, the Board's Litigation/Prosecuting Assistant Attorney General Steve Phillips, and Executive Secretary Mack Smith. Recommendations and Actions from this committee meeting are contained within these minutes.

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**Thursday, January 13, 2011:**

- II. The regularly scheduled meeting of the Kansas State Board of Mortuary Arts (KSBMA) was called to order by President Bill Young.

**Roll call** by Executive Secretary Mack Smith found the following board members in attendance: President William H. "Bill" Young, Lake Quivira, Licensee; Vice President Charles R. Smith, Overland Park, Consumer; Board Member Barry W. Bedene, Arma, Licensee; Board Member Fred G. Holroyd, Topeka, Licensee; and Board Member Diane Minear, Tonganoxie, Consumer. The board's Executive Secretary Mack Smith, and Assistant Attorney General Camille Nohe were in attendance.

The board noted this meeting's tentative agenda that is displayed on the agency's website at: <http://www.kansas.gov/ksbma/> under the heading of *Agency Information* and *Tentative Board Agenda*.

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(Bedene-Holroyd) To approve a **final agenda** for this meeting. Carried.

(Bedene-Holroyd) To adopt the **October 14, 2010 regularly scheduled board meeting minutes** as amended. Carried. These minutes will be signed by President Young and Executive Secretary Smith then displayed on the board's website.

The board reviewed results of the written **funeral directors' examination** administered on **October 14, 2010** noting that **100%** (six of six applicants) were **successful**. One applicant failed to appear for the examination, while another applicant withdrew his application.

The board reviewed results of the written **assistant funeral directors' examination** administered in **November 2010, December 2010** and **January 2011** noting that **67% (4 of 6)** of all applicants were successful. Since the law requiring examination was enacted on February 8, 2008, 52 of 62 applicants (84%) have successfully passed this examination. There still continues to be a dramatic decrease in the number of new assistant funeral director applicants—which continues to effect the KSBMA's revenue negatively.

The board reviewed the '**List of Licensure Applicants**' scheduled to interview with the board at this meeting, noting the following applicants scheduled to meet with the board: two (2) embalmer-funeral director applicants, two (2) funeral director applicants and two (2) reciprocal embalmer-funeral director applicants for a total of six (6) applicants scheduled to be administered the written funeral directors' examination in conjunction with this meeting.

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- III.** The board **reviewed individual applications** for embalmer and funeral director licensure along with the executive secretary's summations of the applicant's apprentice and supervising licensee progress reports. Applicants for licensure will be interviewed later in this meeting. Funeral director applicants will be administered the written funeral directors' examination by Funeral Home/Crematory Inspector Francis Mills at 1:30 p.m. this afternoon in the Florentine Room of the Jayhawk Tower.

All quarterly progress reports of embalmer/funeral director apprentices and supervising licensees were summarized by the executive secretary with copies of the individual reports available for board review.

Copies of related correspondence from the October meeting were also reviewed.

It was noted that two (2) embalmer applicants with extended apprenticeships have not yet gained employment.

There has been no additional correspondence from the student scheduled to graduate from mortuary college with a felony conviction.

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- IV.** **Legal Discussion: Individual Complaints/Investigations are listed numerically. The board did not necessarily take action in the order listed below:**

**Complaints and legal concerns:**

The board reviewed correspondence involving complaints resulting from action taken at the meeting of October 14, 2010.

**Information on open complaints:**

The Board's Investigative Committee, which is composed of Board Members Young and C. Smith with legal assistance provided by Assistant Attorney General (litigation) Steve Phillips and administrative assistance by Executive Secretary Smith, met Wednesday, January 12, 2011 at 3:00 p.m. to discuss and make recommendations on open complaints. Investigative Committee recommendations are included with the following individual complaints.

**#10-20, #10-23, #10-25, #10-30, #10-33, #10-52 & #10-55**—(Young-C. Smith) To adopt the recommendations of the Investigative Committee to accept a consent agreement where the individual surrenders his embalmer and funeral director licenses without admitting fault on the condition that he cannot ever reapply for licensure. Carried. The Investigative Committee will send a letter to the Sedgwick County District Attorney regarding missing prefinanced funeral agreement money. A letter of explanation will be sent to the complainants.

**#10-26**—Following review of all correspondence: (Holroyd-Bedene) To close the file. Carried. The funeral home was advised to include all customarily required services (transportation, cremation, any charges involving permits/documentation, cremation and a temporary container) and merchandise when advertising cremation or face charges of fraudulent, deceptive and misleading advertising. The funeral home was also advised that failure not to include costs for all services and merchandise would be fraudulent, deceptive and misleading advertising with appropriate action to be taken by the KSBMA. A copy of the funeral home's General Price List (GPL) was provided to the Federal Trade Commission (FTC) for review to determine if there are any violations of the FTC's Funeral Rule. The complaint involves fraudulent/deceptive/misleading advertising with information provided on the funeral home's General Price List (GPL).

**#10-27**—Following review of all correspondence: (Holroyd-Bedene) To close the file. Carried. Parties were notified of no violations. The complaint involves fraudulent/ deceptive/misleading advertising by purchasing a cell phone number.

**#10-29**—Following review of all correspondence: (Holroyd-Bedene) To close the file. Carried. Parties were notified of no violations. The complaint involves failure of the funeral home to return the funds from a prefinanced funeral agreement to the legal next-of-kin following death where a different funeral home was utilized. The deceased was receiving assistance at the time of death, and the funeral home in question released their collateral assignment on the policy in question.

**#10-32**—Following review of all correspondence: (Holroyd-Bedene) To close the file. Carried. The licensee was advised to assist any funeral homes or transportation companies transferring a dead human body from Kansas to out of state by providing them with an Out-of-State Transit Permit which is required pursuant to KSA 65-2428a. The complaint involves unprofessional conduct by committing abuse/showing disrespect in the handling of a dead human body and failing to issue an out-of-state transit permit.

**#10-34**—Following review of all correspondence: (Holroyd-Bedene) To close the file. Carried. The facility was notified of no violations as they registered with the Kansas Secretary of State (KSOS) as a preneed provider. The complaint involves the sale of prefinanced cremations without meeting appropriate trusting requirements and registering as a seller of prefinanced funeral agreements with the Kansas Secretary of State's Office.

**#10-37**—Following review of all correspondence: (Holroyd-Bedene) To close the file. Carried. Both parties were notified of no violations. The complaint involves charging for services not provided.

**#10-38**—Following review of all correspondence: (Holroyd-Bedene) To close the file. Carried. Both parties were notified of no violations. The complaint involves unprofessional conduct.

**#10-42**—Following review of all correspondence: (Holroyd-Bedene) To close the file. Carried. Both parties were notified of no violations. The complaint involves concerns with the handling of cremated remains.

**#10-44**—Following review of all correspondence: (Holroyd-Bedene) To close the file. Carried. The funeral director was fined \$100 for failing to issue an out-of-state transit permit and was publicly censured by having the action placed on the KSBMA web site. The complaint involves unprofessional conduct with at-need funeral arrangements, concerns with charges, failure to removed jewelry prior to cremation and failure to issue an out-of-state transit permit.

**#10-48**—No action necessary at this time.

**#10-49**—Following review of all correspondence: (Holroyd-Bedene) To close the file. Carried. A reciprocal embalmer-funeral director applicant with a felony conviction.

**#10-50**—(Young-C. Smith) To adopt the recommendations of the Investigative Committee and close the file. Carried. The complaint involves a complaint filed with the Consumer Protection/Antitrust Division of the Kansas Attorney General's Office involving a cemetery and prefinanced agreements.

**#10-51**—(Young-C. Smith) To adopt the recommendations of the Investigative Committee and close the file. Carried. The complaint involves the transfer of an irrevocable prefinanced funeral agreement trust at-need.

**#10-53**—(Young-C. Smith) To adopt the recommendations of the Investigative Committee and provide information to the Consumer Protection Antitrust Division of the Kansas Attorney General's Office. Carried. The complaint involves unlicensed activity involving at-need funeral arrangements.

**#10-54**—(Young-C. Smith) To adopt the recommendations of the Investigative Committee and notify parties of no violations. Carried. The complaint involves unprofessional conduct in providing professional services of an at-need funeral.

**#10-56**—(Young-C. Smith) To adopt the recommendations of the Investigative

Committee and close the file. Carried. The complaint involves unprofessional conduct with the failure of the funeral home to pay the cemetery a \$25.00 fee for flagging a grave—a fee since paid to the cemetery by the funeral home.

**#10-57**—The board discussed the assistant funeral director application of Lawrence A. Jones, Jr. Mr. Jones was formerly licensed as an embalmer and funeral director in Kansas. (Bedene-Minear) To deny the assistant funeral director application based on KSA 65-1751(a)(13). Carried.

**#10-58**—(Young-C. Smith) To adopt the recommendations of the Investigative Committee and close the file. Carried. The complaint involves who was responsible for paying a funeral bill.

**#10-59**—(Young-C. Smith) To adopt the recommendations of the Investigative Committee and notify parties of no violations. Carried. The complaint involves unprofessional conduct including failure to provide the family a written signed price statement prior to conducting services and providing merchandise.

**#10-60**—(Young-C. Smith) To adopt the recommendations of the Investigative Committee and close the file. Carried. The complaint involves advertising.

**#10-61**—No action necessary at this time.

**#10-62**—No action necessary at this time.

**#11-01**—No action necessary at this time.

**#11-02**—No action necessary at this time.

**#11-03**—No action necessary at this time.

The board noted indictment of controlling officials from **National Prearranged Services, Inc. (NPS)** by the United State's Attorney's Office, Eastern District of Missouri.

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## **V. Proposed Cremation Regulations**

The Board review proposed regulations resulting from passage of **Senate Substitute for House Bill 2310** that will license individual crematory operators, set up licensure/renewal maximums, require certain training and continuing education, increases other fee maximums . . . effective July 1, 2011. There are three (3) new proposed regulations and eight (8) regulations with proposed amendments. These regulations have been approved by the Department of Administration (DOA) Legal Section and the Attorney General's office. The regulations were reviewed and discussed with no additional changes recommended by the board at this time.

A public hearing will be scheduled in conjunction with the April board meeting with adoption to be considered at the July meeting.

## VI. Proposed and Possible Legislation

The Board reviewed proposed legislation drafted by Executive Secretary Smith at the direction of the Board at the October 14, 2010 meeting that would address the issue of funeral homes that close being required to notify the general public of their closure to allow preneed holders to select another funeral home and would amend KSA 65-1713a.

(Bedene-Holroyd) To request introduction of this legislation during the current legislative session. Carried.

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## VII. Board Business:

- 1) (Bedene-Holroyd) To approve the **quarterly lists of continuing education (CE.)** Carried. One list contains on-site programs, while the other contains over 200 correspondence/home study programs. Both of these lists of approved continuing education programs are regularly updated and are available on the board's web site on the internet and are mailed quarterly to requesting licensees not having internet access.
- 2) (C. Smith-Holroyd) To approve the list of **lapsed licenses** as amended. Carried. The list is a part of these minutes and contains the names of individuals whose license renewals are past due for longer than six months, who have requested that their licenses be dropped, who have died or in the case of assistant funeral directors are no longer employed at a funeral home under the supervision of a funeral director. The list reviewed by the Board included ten (10) assistant funeral director licenses, four (4) funeral director licenses, and five (5) embalmer licenses. Information is provided for a number of reasons, including use by the Office of Vital Statistics (OVS) for purposes of licensure verification used on death certificates.
- 3) The board reviewed the list of **automatically suspended licenses**. This list contains the names of individuals who have not paid their license renewal fees by the appropriate due date and have not requested that their licenses be dropped. Once a license is six months in arrears, it is then automatically placed on the lapsed license list for purposes of being dropped. This list included four (4) embalmer licenses and one (1) funeral director renewals due through December 31, 2010.
- 4) (Bedene-Holroyd) To approve the **FY 2011 second quarter** (October 1-December 31, 2010) **Report of Funeral Home/Crematory Inspector**, Francis F. Mills. Carried. 145 inspections were conducted during the quarter with one (1) violation for failure to display a license appropriately and six (6) embalming/preparation room violations. A total of 5,973 miles were traveled involving 53 counties.
- 5) Reviewed the **current roster of apprentice embalmers and funeral directors**. A total of 32 apprentices are currently registered with the board at this time, including: fifteen (15) embalmer-funeral directors, two (2) embalmers and fifteen (15) funeral directors.
- 6) Discussion of **news articles** relating to the funeral profession that has been provided to board members and legal counsel for their review.

Included was a copy of Shawnee County Resolution No. 2010-110 which as of December 1, 2010, establishes fees to offset certain costs of operation of the Shawnee County Coroner's Office by establishing a \$50.00 fee for each cremation occurring in Shawnee County. Billing will be on a monthly basis and will be billed directly to funeral homes/crematories in Shawnee County.

- 7) A reminder of the regularly scheduled 2011 board meeting dates: April 14, July 14, and October 13.
- 8) The board **signed travel vouchers** and **licenses**.
- 9) The board reviewed an *Updated Roster* of **Board Actions**.
- 10) (Bedene-Holroyd) To approve an amended Open Records Policy for the KSBMA. Carried.

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#### **VIII. Executive Secretary's Report:**

- 1) **Budget Update—**  
Budget figures approved by the Division of the Budget (DOB) and Governor Sam Brownback, are as follows:
  - a) The KSBMA currently approved FY 2011 (July 1, 2010 through June 30, 2011) budget is \$272,940 which includes a replacement vehicle for the agency's lone automobile.
  - b) The KSBMA FY 2012 budget is \$275,239—an increase of \$2,299 or less than 1% from FY 2011.
  - c) The KSBMA FY 2013 budget is \$282,648—an increase of \$7,409 or less than 2.7% from FY 2012.
- 2) Updated information regarding the **International Conference of Funeral Service Examining Boards (ICFSEB)**.
  - a) Mr. Smith will represent the KSBMA at the ICFSEB's 107 Annual Convention and the **Association of Executives of Funeral Service Boards (AEFSB)** to be held on March 3-4, 2011 in Myrtle Beach, South Carolina.
  - b) The board viewed and discussed the Winter 2010 Conference Report.
- 3) Updated information on the **Council on Licensure, Enforcement and Regulation (CLEAR)** was discussed.
- 4) Updated information regarding the **Federation of Associations of Regulatory Boards (FARB)**.
  - a) Due to funding restraints, Mr. Smith did not attend the 18<sup>th</sup> Annual Attorney Certification Seminar in Professional Regulatory Law held October 1-3, 2010 in Washington, D.C.
  - b) Due to funding restraints, Mr. Smith will not be attending the 35<sup>th</sup> Annual FARB Forum to be held January 28-30, 2011 in New Orleans, Louisiana.
- 5) Updated information on the **Kansas Funeral Directors and Embalmers Association (KFDA)**.
  - a) Mr. Smith will represent the KSBMA at the Spring 2011 KFDA Regional Meetings as scheduling permits and will present a Board Update during the business session of the meeting if approved by the KFDA.
  - b) Mr. Smith will represent the KSBMA at the 2011 Annual KFDA Convention in May 2011 in Wichita if scheduling permits. KSBMA Funeral Home-Crematory Inspector Francis Mills will also attend.
- 6) Information relating to the **board's Web Site**:  
<http://www.kansas.gov/ksbma/>.

- a) There were 23,951 successful requests on the KSBMA web site for the month of December 2010.
  - b) [Kansas.Gov](http://Kansas.Gov) continues to work on setting up the entire KSBMA renewal process, via KanPay, to allow all license renewals to be performed on-line.
  - c) [Kansas.Gov](http://Kansas.Gov) continues to work on the KSBMA web site with a projected change over date of February 1, 2011.
  - d) The Board noted the updated Board Action section on the KSBMA web site.
- 7) The board discussed information pertaining to the **National Funeral Directors Association (NFDA)**.
  - 8) Updated information from the **Federal Trade Commission (FTC)** regarding the **Funeral Rule** was discussed.
  - 9) Updated information from the **American Board of Funeral Service Education (ABFSE)** was discussed.
  - 10) Updated information from the **Cremation Society of North America (CANA)** was discussed.
  - 11) Updated information from the **Funeral Ethics Association (FEA)** was discussed.
  - 12) Updated information from the **Funeral Consumer Alliance (FCA)** was discussed.
  - 13) Updated information from the **Funeral Consumer's Alliance of Greater Kansas City** was discussed.
  - 14) Updated information from the **Funeral Ethics Organization (FEO)** was discussed.
  - 15) Updated information from the **American Society of Embalmers (ASE)** was discussed.
  - 16) Updated information from the **Kansas Department of Health and Environment (KDHE), Office of Vital Statistics (OVS)** was discussed.
  - 17) Updated information from the **Kansas City Kansas Community College (KCKCC) Mortuary Science Program**.
  - 18) Updated information from the **Kansas Mass Fatality Planning Task Force** was discussed.
  - 19) **SMART/FMS** Update–The new financial management system of the State of Kansas implemented on July 1, 2010 for FY 2011 continues to be a work in progress.
  - 20) Mr. Smith and Kansas Secretary of State Audit Manager Mindi Kohake-Casey met with representatives of the **Missouri State Board of Embalmers and Funeral Directors**. The Board reviewed a report of the meeting provided by Mr. Smith. Missouri has had some major changes with laws regulating prefinanced funeral agreements, and the meeting included an idea exchange involving procedures used by both states. All parties made plans to meet again in the future. Board Member Bedene suggested the possibility of a joint meeting between Kansas and Missouri boards to discuss common issues in the future.
  - 21) Mr. Smith served on a three-person panel that made a presentation on to the *Department of Administration's (DOA's) Leadership Program on Leadership Styles*. One DOA attendee has selected Mr. Smith to shadow him on a day at work during the 2011 Legislative Session. The presentation was made on December 2, 2010 in the Curtis Building.
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**IX. Board Interviews with Applicants for Licensure:**

**Funeral Director Applicant: Mr. Eric R. Batliner**

(Bedene-Holroyd) To grant a funeral director license upon payment of an initial license fee of \$28.00 and passing of the written funeral director examination, which will be administered later today. Carried. Mr. Batliner completed his funeral directing apprenticeship on December 30, 2010 at Amos Family Funeral Home in Shawnee, Kansas. Once issued, the renewal date for the licenses would be February 28, 2012. Mr. Batliner attended Johnson County Community College in Overland Park, Kansas and earned an Associate in Applied Science degree in Mortuary Science at Kansas City Kansas Community College in Kansas City, Kansas.

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**Embalmer-Funeral Director Applicant: Mr. Keith W. Lancaster**

(Bedene-C. Smith) To grant an embalmer license upon payment of an initial license fee of \$161.00 and to grant a funeral director license upon payment of an initial license fee of \$46.00 and passing of the written funeral director examination, which will be administered later today. Carried. Mr. Lancaster completed his apprenticeships on December 23, 2010 at Coffel-Schneider Funeral Home in Pleasant, Kansas. Once issued, the renewal date for the licenses would be December 31, 2012. Mr. Lancaster earned an Associate of Science Degree at Ft. Scott Community college, attended Pittsburg State University in Pittsburg, Kansas and earned an Associate in Applied Science degree in Mortuary Science at Kansas City Kansas Community College in Kansas City, Kansas.

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**Funeral Director Applicant: Mr. Jordan L. Stewart**

(Holroyd-C. Smith) To grant a funeral director license upon completion of apprenticeship, payment of an initial license fee of \$14.00 and passing of the written funeral director examination, which will be administered later today. Carried. Mr. Stewart is scheduled to complete his funeral directing apprenticeship on January 21, 2011 at Timmons Funeral Home in Fredonia, Kansas. Once issued, the renewal date for the licenses would be July 31, 2011. Mr. Stewart attended Independence Community College in Independence, Kansas, Neosho County Community College in Chanute, Kansas, and Hutchinson Community College and Area Vocational School in Hutchinson, Kansas.

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**Embalmer-Funeral Director Applicant: Mr. Taron J. Davis**

(Bedene-C. Smith) To grant an embalmer license upon completion of apprenticeship and payment of an initial license fee of \$105.00 and to grant a funeral director license upon completion of apprenticeship, payment of an initial license fee of \$30.00 and passing of the written funeral director examination, which will be administered later today. Carried. Mr. Davis is scheduled to complete his apprenticeships on February 17, 2011 at Ryan Mortuary in Salina, Kansas. Once issued, the renewal date for the licenses would be April 30, 2012. Mr. Davis attended Northwest Missouri State University in Maryville, Missouri and earned an Associate in Applied Science degree in Mortuary Science at Kansas City Kansas Community College in Kansas City, Kansas.

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**Reciprocal (Nebraska) Embalmer-Funeral Director Applicant: Mr. Zachary J. "Zach" Coffin**

(C. Smith-Minear) To grant a reciprocal embalmer license upon payment of an \$98.00 initial license fee and to grant a reciprocal funeral director license upon payment of a \$28.00 initial license fee and passing the written funeral director examination, which will be administered later today. Carried. The renewal date for the licenses would be March 31, 2012. Mr. Coffin was granted a Nebraska funeral director-embalmer license on July 15, 2008. He attended Southeast Community College in Lincoln, Nebraska earned an Associate in Applied Science Degree in Mortuary Science at Kansas City Kansas Community College. He passed the national examination administered by International Conference of Funeral Service Examining Boards in 2007 and has been a licensed Kansas assistant funeral director since September 15, 2010. Mr. Coffin is employed at Chaput-Buoy Funeral Home located in Concordia, Kansas.

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**Reciprocal (Texas) Embalmer-Funeral Director Applicant: Mr. Scott M. "Scotty" Schilling**

(Bedene-C. Smith) To grant a reciprocal embalmer license upon payment of an \$49.00 initial license fee and to grant a reciprocal funeral director license upon payment of a \$66.50 initial license fee and passing the written funeral director examination, which will be administered later today. Carried. The renewal date for the licenses would be July 31, 2011. Mr. Schilling was granted a Texas funeral director and embalmer licenses on March 31, 2005 and Oklahoma funeral director and embalmer licenses on May 13, 2010. He earned an Associate in Applied Science Degree in Mortuary Science at Amarillo College located in Amarillo, Texas. He passed the national examination administered by International Conference of Funeral Service Examining Boards in 2003.

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**X. New/Old/Remaining Business/Adjournment**

(Holroyd-Bedene) To adjourn—subject to recall by the president, vice president or executive secretary. Carried. The date of the next regularly scheduled board meeting is Thursday, April 14, 2011. A *public hearing* will be scheduled to review *regulations* relating to the **licensing of crematory operators** at the April meeting.

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At approximately 1:30 p.m. Executive Secretary Smith read instructions to the funeral directors' examinee applicants prior to the administration of the funeral director examination which was proctored by Inspector Francis Mills in the Florentine Room of the Jayhawk Tower. The results of that examination are a part of these minutes.

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Respectfully submitted:

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William H. "Bill" Young, President  
Thursday, April 14, 2011  
(Date)

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Mack Smith, Executive Secretary  
Thursday, April 14, 2011  
(Date)

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